



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

Frank O'Connell
Director

Suite 15300
1800 Century Boulevard
Atlanta, Georgia 30345
(404) 417-2100

NOTICE

(Notice LGSD 2010-2)

**RE: Proposed Rules to the Department of Revenue, Alcoholic Beverages,
Chapter 560-11-8.**

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Chapter 560-11-8 of the Rules and Regulations of the State of Georgia by proposing:

560-2-5-.01, Attached with this notice are exact copies and synopses of the proposed Rules. The proposed Rules are being adopted under the authority of O.C.G.A. §§ 48-2-12, 48-6-61, 48-6-62, and 48-6-64.

The Department of Revenue shall consider the adoption of the above-referenced proposed Rules at 10:00 a.m., on Monday, July 19, 2010 in Suite 15200 of the Department's headquarters at 1800 Century Blvd. NE, Atlanta, GA 30345-3205.

The Department must receive all comments regarding the above-referenced proposed Rules from interested persons no later than 10:00 a.m. on Monday, July 19, 2010.

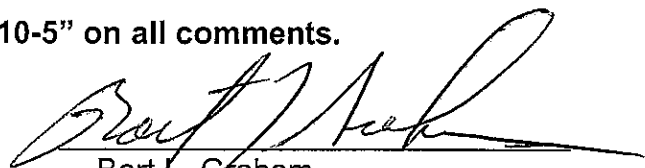
Written comments must be sent to: Commissioner, Georgia Department of Revenue, 1800 Century Blvd. NE, Suite 15300, Atlanta, GA 30345-3205.

Electronic comments must be sent to regcomments@dor.ga.gov.

Facsimile comments must be sent to (404) 417-6651.

Please reference "Notice Number ATD 2010-5" on all comments.

Dated: June 15, 2010


Bart L. Graham
Commissioner
Department of Revenue

SYNOPSIS

RULES
OF
DEPARTMENT OF REVENUE
LOCAL GOVERNMENT SERVICES DIVISION

CHAPTER 560-11-8
INTANGIBLE RECORDING TAX

560-11-8-.07 Multi-State Property – Intangible Recording Tax.

- This is an amended Rule.
- This Rule provides the manner in which Intangible Recording Tax is calculated when the property encumbered is in Georgia and another state.
- This Rule provides that residents are required to pay Intangible Recording Tax on the full amount of the note, unless they provide an affidavit specifying the value of the property located in Georgia.
- This Rule provides that non-residents may apportion the Intangible Recording Tax based upon the value of the property located in Georgia.
- This Rule was adopted in 1996.

RULES
OF
DEPARTMENT OF REVENUE
LOCAL GOVERNMENT SERVICES DIVISION

CHAPTER 560-11-8
INTANGIBLE RECORDING TAX

~~560-11-8-.07 Multi-State Property.~~

~~(1) Resident holder: If the holder of an instrument conveying property located both within and without the State of Georgia to secure a long-term note, is a resident of Georgia, the amount of the tax required is that amount that would be due were the property located wholly within the State of Georgia. The maximum amount of Georgia intangible recording tax payable with respect to the instrument is \$25,000.~~

~~(2) Nonresident holder: A nonresident, if a business entity, for the purposes of this regulation is defined as any business entity that is incorporated or organized under law other than the law of Georgia and maintains its principal place of business in a state other than Georgia.~~

~~(a) If the holder of an instrument conveying property located both within and without the State of Georgia is a nonresident of Georgia, the amount of tax due would be \$1.50 per~~

~~\$500.00 or fraction thereof of the principal of the note, times (x) the ratio of the value of real property located in Georgia to the value of all real property, in-state and out-of-state, securing the note.~~

~~(b) All values must be certified under oath by the holder presenting the instrument for recording. The application of the \$25,000 cap is made after the above referenced computation is completed. An example follows:~~

~~\$100,000,000 = Total Loan Amount~~

~~10% = % of FMV of Real Property located within Ga.~~

~~90% = % of FMV of Real Property located outside Ga.~~

~~\$300,000 = Tax on Loan Amount (\$100,000,000 x .003)~~

~~30,000 = Tax on 10% of Loan Amount (Ga. portion)~~

~~25,000 = Tax (after application of the cap)~~

~~(3) Resident and nonresident holders: Where a single security instrument secures long-term notes held by both residents and nonresidents and the long-term notes held by the residents and the nonresidents are clearly identifiable from the security instrument, the nonresident holders will be allowed to apportion their tax paid based on the apportionment formula described in subsection (2)(b):~~

~~(a) Resident holders in the same transaction, however, will be required to pay the intangible recording tax as if the property were located wholly within the State of Georgia on~~

~~that portion of indebtedness represented by the long-term notes they hold. The maximum amount of Georgia intangible recording tax payable with respect to the indebtedness is \$25,000.~~

~~(b) If the notes held by residents and nonresidents cannot be distinguished from the face of the security instrument, no holder, resident or nonresident, will be allowed to apportion their tax paid based on the apportionment formula described in subsection (b).~~

560-11-8.07 Multi-State Property – Intangible Recording Tax.

(1) Resident Holder. If the Holder of a Security Instrument encumbering property located partially within Georgia and partially within another state, is a resident of Georgia, the amount of the Intangible Recording Tax required is that amount that would be due were the property located entirely within Georgia.

(a) The recording party may provide a sworn affidavit as to the value of the property located in Georgia and the value of the property located in another state.

(b) If an affidavit is provided, the amount of tax due would be \$1.50 per \$500.00, or fraction thereof, of the principal of

the note, times (x) the ratio of the value of real property located in Georgia to the value of all real property securing the note, whether in Georgia and another state.

(2) **Nonresident Holder.** If the Holder of a Security Instrument conveying property located both in Georgia and another state or states, is a nonresident of Georgia, the amount of Intangible Recording Tax due is \$1.50 per \$500.00, or fraction thereof, of the principal of the note, times (x) the ratio of the value of real property located in Georgia to the value of all real property, in Georgia and another state, securing the note.

(a) All values asserted must be verified under oath by the Holder of the Security Instrument.

(3) **Resident and Nonresident Holders.** Where a single Security Instrument secures Long-term Note(s) held by both residents and nonresidents and the Long-term Note(s) held by the residents and the nonresidents are clearly identifiable on the Security Instrument, the Holders will be allowed to

apportion their tax paid based on the apportionment formula described in this Regulation.

(a) If the notes held by residents and nonresidents cannot be distinguished from the face of the Security Instrument, or by the affidavits, no Holder, resident or nonresident, will be allowed to apportion their tax.

Authority: O.C.G.A. §§ 48-2-12, 48-6-60, 48-6-61, 48-6-62, and 48-6-64 et seq.